

COLORADO CHARTER SCHOOLS BEST PRACTICES GUIDEBOOK: SAMPLE SPECIAL EDUCATION AND SECTION 504 COMPLIANCE PLAN FOR CHARTER AND RENEWAL CHARTER APPLICATIONS

SPECIAL EDUCATION and SECTION 504 COMPLIANCE PLAN¹

I. Compliance with Federal and State Special Education and Disability Laws

ACME Charter School (ACME) acknowledges and understands that it is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, including the Individuals with Disabilities Education Act (IDEA), the Colorado Exceptional Children's Educational Act (ECEA), Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA). ACME will be accountable to the board of education of the Lost Lake School District (District) for purposes of assuring compliance with federal and state special education and disability laws.

II. Responsibility for Special Education Services

ACME acknowledges and understands that the District's special education director is responsible for assuring that all special education students attending ACME receive a free appropriate public education (FAPE) under the IDEA and the ECEA.

ACME will use the combination model (a combination of the insurance and contract models) for special education service delivery. Specifically, ACME will be responsible for providing special education instruction according to the individualized education programs (IEPs) for each student with a disability enrolled at ACME. ACME will deliver special education instruction primarily within the regular classroom, and will provide resource room "pull-out" services as required by student IEPs. Within this framework, ACME will provide all necessary accommodations and instructional/curricular modifications as required by student IEPs.

The District will provide all related services required by the IEPs, including but not limited to initial evaluations and re-evaluations, occupational therapy, physical therapy, paraprofessional services, school psychology services, school health care services, and

¹ This *Sample Special Education and Section 504 Compliance Plan* (Sample Plan) is intended to be a practical guide for charter school developers/boards and school districts as they negotiate how special education and Section 504 services will be delivered in charter schools. While this Sample Plan addresses the major issues involving the delivery of special education and Section 504 services in charter schools, it is not exhaustive. The use of the Combination Model in this sample plan does not constitute the CDE's endorsement of, or preference for, that model over other available service delivery and funding models available for use by charter schools and school districts. Nothing in the Sample Plan is to be considered the rendering of legal advice for specific cases. Readers are responsible for obtaining such legal advice from their own attorneys.

transportation services required by student IEPs. ACME and the District will jointly select the related services providers who will be assigned to ACME.

III. Special Education Teacher Qualifications

ACME acknowledges and understands that it is not exempt from special education credentialing requirements under the IDEA and the ECEA. ACME will either hire a special education teacher possessing a Colorado teacher's license, with appropriate endorsements, or an individual who will apply, through the District's special education director, for temporary teacher eligibility.

IV. Special Education Funding

ACME will use the combination model (a combination of the insurance and contract models) for special education funding. Specifically, the District will pass through to ACME all federal and state special education funds for which ACME is eligible pursuant to the IDEA, the U.S. Charter Schools Expansion Act, the Colorado Charter Schools Act, and the ECEA. ACME will contract with the District for all related services that the District will provide to ACME special education students.

Prior to the 2003-2004 school year, ACME representatives (consisting of board members and administrators) and the District's special education director will meet (1) to discuss in detail how special education is funded in the District, (2) to develop effective procedures for conducting the December special education count day, (3) to develop effective record-keeping and reporting procedures on required student, staff, revenue and expenditure data, and (4) to obtain copies of all District special education policies, procedures, guidelines and other resource documents. A major purpose of this dialogue will be to establish a joint understanding about how the District will pass through to ACME the federal and state special education funds for which ACME is eligible.

V. Enrollment/IEP Transition Procedures

Enrollment at ACME will be open to any child who resides within the District. A majority of students attending ACME will reside in the District or in school districts that are contiguous to the District.

To the extent that space is not available for all students requesting enrollment as of April 30, 2003 and during each subsequent year, ACME will establish a lottery for determining which students will attend ACME. A wait list based on the results of the lottery will be maintained throughout the academic school year. If the wait list is exhausted during the course of the school year, children will then be accepted for enrollment on a first-come, first-serve basis.

ACME's initial enrollment application form will not ask a parent to state whether his or her child is on an IEP or a Section 504 plan. However, at the time that a child is accepted for enrollment at ACME, the parent will be asked those questions.

If a child is on an IEP, ACME will immediately request the child's special education records from the child's last school district of attendance. An IEP transition meeting will be timely scheduled to determine whether ACME can provide the child with a FAPE. The child's IEP team will make all placement decisions, including any decision to exit the child from special education or any determination that ACME is not an appropriate placement for the child. ACME will invite the District's special education director/designee to attend the IEP transition meeting. In addition, if the child is not a resident of the District, ACME will also invite the special education director/designee of the child's district of residence to attend the IEP transition meeting.

If a child's IEP transition meeting cannot be scheduled prior to the onset of the academic school year, ACME and the District will provide the special education and related services specified by the child's current IEP, unless the child is a transfer student from another school district or public agency, in which case the procedures for transfer students set forth in Section VI, below, will be followed.

VI. Transfer Students

When a student on an IEP developed by a school district or public agency other than the District enrolls at ACME, ACME will immediately notify the District's special education director as soon as ACME knows that the student is a child with a disability. In such a case, special education services for that student will be provided (1) in accordance with the child's current IEP, or (2) if the child's IEP is unavailable, interim services agreed to by ACME, the District's special education director and the child's parents will be provided for the child. Such interim services will continue to be provided until the child's IEP is received from the sending school district or public agency, at which time the services specified by that IEP will be provided. In any event, if the child's IEP from the sending school district or public agency has not been received within a reasonable amount of time, the child will be referred for assessment. The referral and assessment process will be initiated so as to allow the completion of the IEP within 30 school days from the date enrollment was requested.

Alternatively, ACME may choose to immediately refer the child for a complete assessment and IEP planning. During the assessment and planning period, special education services will be provided as specified by the child's last agreed upon IEP or as agreed to by the parents, the District's special education director and ACME. The assessment and planning process will be completed within 30 school days.

Services for transfer students will begin (1) immediately if the services are available, (2) within 3 school days of requested enrollment if the services need to be developed, or (3) pursuant to other options agreed to in writing by the parent(s).

VII. Pre-referral Interventions and Pre-referral Team

ACME acknowledges and understands that pre-referral interventions should be conducted and documented before it refers a child for a special education assessment. ACME will regularly convene a pre-referral team to make such determinations. ACME's pre-referral team will be known as the "Student Support Team."

Pre-referral interventions are planned, systematic efforts by regular education staff. A pre-referral intervention is a regular education teacher's modification of instruction or classroom management. The purpose of pre-referral interventions is to resolve the student's apparent learning or behavior problems.

ACME's Student Support Team will develop criteria and indicators to determine whether a pre-referral intervention is successful. At least two pre-referral interventions will be conducted and documented before a child is referred for a special education assessment, unless the child's suspected disability is obvious or an initial assessment is requested by the parent, a teacher or other individual knowledgeable about the child.

ACME's Student Support Team will typically include ACME's principal, a regular education teacher, a special education teacher, a counselor, and other educational specialists as necessary. The Student Support Team will be responsible for notifying the student's parents of the concerns involving the student and give the parents the opportunity to share information that may impact the student's learning or behavior problems.

At the beginning of each school year, the Student Support Team will conduct an in-service for ACME's regular education staff. The purpose of the in-service is to train ACME's regular classroom staff on pre-referral interventions and the criteria and indicators for determining whether the interventions are successful.

VIII. Assessment and Re-Evaluation Procedures

The District's special education office will be responsible for conducting all initial evaluations and re-evaluations, including obtaining written parental consent, tracking required timelines, scheduling, and facilitating eligibility determination meetings.

IX. IEP Development and Review Meetings

ACME will be responsible for tracking IEP annual, triennial, and other review meeting timelines. ACME will coordinate with the District's special education director or designee regarding the scheduling and facilitation of IEP meetings. ACME will coordinate with the District's special education office to ensure that an appropriately constituted IEP team is assembled for each IEP meeting. ACME will be responsible for preparing and delivering legally compliant written notices for such meetings and include

with the written meeting notice to parents a copy of the procedural safeguards notice. The District's special education director or designee will obtain written parental consent for initial placement.

X. Least Restrictive Environment Requirement and Age-Appropriate Classrooms

ACME will educate its special education students to the maximum extent appropriate in age-appropriate classrooms with needed accommodations, instructional/curricular modifications and other supports, unless the student is unable to be involved in and progress in the general curriculum with such accommodations, instructional/curricular modifications and supports.

XI. Extended School Year (ESY) Services

ACME will provide all special education instruction and the District will provide all related services for extended school year (ESY) services required by student IEPs. ACME acknowledges and understands that the purpose of ESY services is to maintain the student's current skills and not to develop new skills.

XII. Student Discipline

ACME will immediately notify the District's special education director or designee when ACME is contemplating student discipline that is likely to result in a change of placement for one of its special education students. The District will respond in a timely manner to ensure that all federal and state special education and student discipline timelines are met.

ACME will coordinate with the special education director/designee and parent(s) to schedule a manifestation determination review by an appropriately constituted IEP team prior to implementing any change of placement. Disciplinary procedures will comply with IDEA requirements.

The District will make its interim alternative educational settings and accompanying procedures available to ACME for students who are involved in illegal drugs, controlled substances, dangerous weapons or for students whom ACME considers to be dangerous to themselves or others. The District will provide technical assistance, as needed, for conducting required functional behavioral assessments and developing required behavior intervention plans.

XIII. Programming Disputes Involving Parents

If a student's parent or legal guardian, or a student (when the student is emancipated or over the age of 18) expresses verbal or written dissatisfaction with the student's special education program and of his/her intent to dispute it, ACME will immediately contact the District's special education director. Examples of parent/student dissatisfaction include situations when (1) a parent retains an attorney, (2) the parent threatens to request a due process hearing or to file a complaint with the Colorado Department of Education, and

(3) the parent withdraws his/her child from the charter school, expressing his/her dissatisfaction with the child's special education services and the intent to (a) enroll the child in a private school and (b) seek reimbursement for the private school tuition. The District will make available to and assist ACME with the procedures available for resolving special education disputes.

The District will allow ACME to access the District's legal counsel regarding special education legal issues and disputes upon ACME's reasonable request. Reasonable requests include situations involving programming disputes and student discipline issues that may involve a change of placement for an ACME student. Access to the District's legal counsel must be pre-approved in writing by the District's special education director, in which case the District will pay for such legal services. In the event that the District's legal counsel determines that it/he/she has a conflict of interest in advising ACME, ACME will obtain separate legal counsel at its own cost.

ACME agrees to indemnify and hold the District harmless for any errors and omissions committed by ACME in connection with special education disputes. ACME will maintain liability insurance for special education disputes if such insurance is available. ACME will timely notify the District if such insurance is unavailable.

The District agrees to indemnify and hold ACME harmless for any errors and omissions committed by the District in connection with special education disputes involving ACME. The District will obtain liability insurance for special education disputes if such insurance is available. The District will timely notify ACME if such insurance is unavailable.

XIV. Confidentiality and Special Education Records

Pursuant to the IDEA, the ECEA, the federal Family Educational Rights and Privacy Act and the Colorado Public Records Act, ACME will establish policies and procedures to maintain the confidentiality of personally identifiable information in special education records during all stages of their collection, storage, disclosure and destruction. ACME will timely notify the District's special education office when a parent or student requests access to, or requests copies of, the student's special education records so that all locations and formats for storage of the requested records within the District can be fully identified for proper production to the parent or student.

XV. Professional Development, Technical Assistance and Other Communications

The District's special education director or designee will timely notify ACME of District-sponsored special education in-service training opportunities and their dates. Appropriate ACME personnel will attend District-sponsored special education in-service training whenever possible.

ACME will contact the District special education director when ACME is in need of technical assistance. The District will provide technical assistance to ACME in a timely

manner. The District will also include ACME in the District's communications to its schools regarding new and important special education information and updates.

XVI. Special Education Vendors

The District will provide to ACME a list of resources, vendors and contacts in order to facilitate ACME's purchase of special education materials. The District will require its vendors to provide the same discounts to ACME as are provided to the District and its other public schools. ACME will afford the District the opportunity to review and comment on ACME's special education vendors.

XVII. Section 504 Eligibility, Services, Technical Assistance and Training

ACME will use the District's Section 504 policies and procedures for compliance with Section 504 requirements. ACME's Student Support Team members will attend Section 504 training in order to become knowledgeable about Section 504 requirements and procedures. The Student Support Team will conduct an in-service at the beginning of each school year to train regular education staff on Section 504 requirements, including instructional modifications and accommodations in the regular classroom setting.

ACME will include in its student handbook a notice of nondiscrimination on the basis of disability and also appropriately post the nondiscrimination notice within its facility. ACME will be responsible for determining student eligibility for Section 504 services, and, as a best practice, will convene a Section 504 team as necessary when an ACME student has been determined to be ineligible for services under the IDEA and the ECEA.

ACME will develop a written Section 504 plan for each eligible student. It will also be responsible for delivering Section 504 services and for holding manifestation determination reviews in connection with student discipline proceedings. The District will make available to ACME the District's dispute resolution mechanisms in the event of a Section 504 dispute.

Upon ACME's request, the District will timely provide technical assistance to ACME personnel regarding Section 504 requirements and issues. The District will include ACME in the District's communications to its schools regarding new and important Section 504 information and updates. The District will also invite appropriate ACME personnel to District-sponsored Section 504 in-service training, and ACME personnel will attend such training whenever possible.